Remarks

A. Pending Claims

Claims 1-61 have been rejected. Claims 1, 4, 21, 22, 24-41, 44 and 61 have been amended. Claims 3, 23 and 43 have been cancelled. Claims 1, 2, 4-22, 24-42 and 44-61 are pending in the case.

B. Rejection Under 35 U.S.C. § 101

The Examiner rejected claims 21-40 under 35 U.S.C. §101 as being directed to non-statutory subject matter. The Examiner stated:

> The claimed invention recites a "carrier medium" and can be reasonably interpreted by one of ordinary skill in the art as a data or electronic signal, which does not belong to a statutory class since said "carrier medium" is not clearly a method, apparatus, article, or composition of matter.
> (Office Action, page 2)

Although Applicant does not necessarily agree with the Examiner's position, Applicant has amended claims 21-40 to recite a "computer-readable medium." Applicant respectfully request removal of the rejection under 35 U.S.C. § 101.

C. The Claims Are Not Obvious Over Zak in View of Burge Pursuant to 35 U.S.C. § 103(a)

The Examiner rejected claims 1-61 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0004729 to Zak et al. ("Zak") in view of U.S. Patent Publication No. 2003/0200123 to Burge et al. ("Burge"). Applicant respectfully traverses these rejections for the following reasons.

In order to reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner* et al., 379 F.2d 1011, 154 U.S.P.Q. 173, 177-178 (C.C.P.A. 1967). To establish a *prima facie* obviousness of a claimed invention, <u>all</u> the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). (Emphasis added). Moreover, in an obviousness determination, it is important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the manner claimed. *Takeda Chemical v. Alphapharm*, 492 F.3d 1350, 1356-57 (Fed. Cir. June 28, 2007) (citing *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1731 (2007)).

<u>Independent Claim 1</u>

Amended claim 1 recites, *inter alia*:

> selecting a body part on at least one human body representation;
> displaying, in response to selecting the body part, input selection
>   information related to the selected body part

The Examiner states:

> As to **Claim 1, 21, and 41,** Zak teaches a method, a program instructions executable, and an insurance claim processing system comprising:
> •   selecting a body part on at least one human body representation (Zak, Fig. 3-4);
> •   displaying input selection information related to the selected body part (Zak, Fig. 4 and paragraph 77-79); and

> (Office Action, page 3)

Zak states:

> [0076] FIG. 3 shows a problem form 200 incorporating the invention's "Body GUI" (Body Graphical User Interface) 205 used to document additional patient complaints and exam findings obtained during the history phase of an EMS call. In the body GUI 205 of the problem forms 200, a graphical representation of the human body 210 is shown at the left of the form detail area. By simply touching the display of a particular body

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part using the pen stylus, the EMT user can easily associate focal patient complaints and exam findings with a particular body region, and "zoom in" to document finer levels of detail in a medical problem. See FIG. 4, which shows the result of selecting the thoracic portion 211 of the body representation 210 in FIG. 3. Dashed lines 222 help the user to identify regions that are selectable, so that the user can zoom in further to the left or right chest, sternum, belly, side, or other marked area. Icons 224 at the bottom of the "Body GUI" allow the user to rotate the image for lateral or posterior views, select right and left body parts (e.g., hands, eyes), or zoom back out to the full body image. The portion of the body being selected appears in text form listed in the Complaint location(s) window 240, and appears as well in a header line at the top of body GUI display 205. The Body GUI is also gender specific based upon the patient's sex as entered on the patient demographics form.
(Zak, page 4, paragraph [0076])

Zak appears to disclose a graphical interface used to document patient complaints. A graphical representation of the human body is depicted to the side of a detail area. By selecting a body portion of the representation, the user can associate complaints and findings with a particular body region. As depicted in FIGS. 3 and 4 of Zak, selecting a body portion of the representation may cause the body representation to change and the title in the complaint locations window to change. The remainder of the selections in the problem form, however, do not change based on the selection of the body portion. For instance, as illustrated in FIGS. 3 and 4, the available selections under the "history of present problems" appears to be the same in FIGS. 3 and 4. Accordingly, Zak does not appear to teach or suggest displaying, in response to selecting a body part, input selection information related to the selected body part. In contrast, the Zak appears to disclose generic information that is displayed even before a selection of a body part is made. For at least this reason, Applicant submits that claim 1 is allowable over the cited art.

In another portion of the rejection, the Examiner states:

But, Zak does not specifically discloses providing a graphical display in an insurance claim processing system. However, Burge does disclose using a

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graphical representation of a human body within an insurance claim processing system (Burge, Abstract and paragraph 49).
(Office Action, page 3)

The Examiner takes the position that Burge discloses using a graphical representation of a human body. Applicant respectfully disagrees. Burge does not appear to disclose a graphical representation of a human body.

The cited portions of Burge states:

> A system and method for using simulation to evaluate the injury claims of individuals involved in motor vehicle accidents. The system uses a computer system configured to accept accident data collected during the insurance claims process, provide an analysis of the impact forces and provide information about the forces and accelerations on body parts of the individuals claiming injuries. By substantially automating the conversion of accident data into occupant dynamics simulation information, injury claims can be cost-effectively analyzed using simulation.
> (Burge, Abstract)

and

> [0049] FIG. 10 is an exemplary Claimant Specification Form 1005 that enables a user to cause the Data Management System 120 to generate a virtual representation of Claimant 10 by inputting specifications into the form and clicking the Set Button 835. Here, Claimant 10 is shown generated from specifying Gender 1010, Height 1015, Weight 1020 and Age 1025. Software capable of generating a virtual human from these data inputs is known in the art for human and dummy representation, such as the Bodybuilder and Anthropos products by the TecMath corporation and Mannequin Pro from NexGen Ergonomics. Restraint use for claimant may also be specified, here shown as specifying Seatbelt Use 1030 and Airbag Deployment 1035.
> (Burge, page 3, paragraph [0049])

Burge discloses a system and method for using simulation to evaluate the injury claims of individuals involved in motor vehicle accidents. The system provides an analysis of the impact forces and information about the forces and accelerations on body parts of the individuals

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claiming injuries. Burge further discloses a form that enables inputting specifications that can be used to generate a "virtual human" used in the analysis. Burge does not, however, teach or suggest a graphical representation of a human body. In contrast, Burge appears to disclose entering textual or numerical data related to the claimant. For example, as depicted in FIG. 10 of Burge, the form includes fields for inputting data related to gender, height, weight, age, seatbelt-use and airbag deployment, but does not include any graphical representation of a human body. Accordingly, applicant submits that Burge does not disclose using a graphical representation of a human body within an insurance claim processing system.

For at least these reasons, Applicant respectfully submits that claim 1 is allowable over the cited art.

Independent Claim 21

Similar to amended claim 1, amended claim 21 recites, *inter alia*:
> selecting a body part on at least one human body representation;
> displaying, in response to selecting the body part, input selection
> information related to the selected body part

For at least the reasons discussed above with respect to claim 1, Applicant submits that claim 21 is allowable over the cited art.

Independent Claim 41

Similar to amended claim 1, amended claim 41 recites, *inter alia*:
> selecting a body part on at least one human body representation;
> displaying, in response to selecting the body part, input selection
> information related to the selected body part;

For at least the reasons discussed above with respect to claim 1, Applicant submits that claim 41 is allowable over the cited art.

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Independent Claim 61

Amended claim 61 recites, *inter alia*:

> receiving input corresponding to at least one body part on the at least one
> human body representation; and
> highlighting, in response to receiving the input, at least one body part
> corresponding to the received input on at least one human body
> representation.

With regard to claim 61, the Examiner stated:

> Zak teaches a method, comprising:
>
> . . .
>
> • highlighting at least one body part corresponding to the received input on
> at least one human body representation (Zak, Fig. 3 and paragraph 83).

Zak states:

> [0083] In a case where pain or other bodily symptom is reported as shown
> in FIG. 2, the sequence of forms exemplified in FIGS. 3 and 4 is displayed,
> so that the Body GUI can be used to narrow down reported symptoms. If
> the highlighted problem involves a motorized vehicle crash on the FIG. 2
> form, the forms 200c and 200d of FIGS. 6 and 7 respectively are displayed
> as part of the sequence of problem forms to gather crash data. Other crash
> data forms may be added as needed. In general, by selecting (highlighting)
> a specific <u>complaint in the problem list</u>, the EMT selects a specific
> sequence of forms appropriate to the selected entry.
> (Zak, page 5, paragraph [0083], emphasis added)

This portion of Zak appears to disclose that a user may select (highlight) a <u>complaint in the problem list</u>. Zak does not appear to teach or suggest, however, highlighting at least one body part corresponding to the received input on at least one <u>human body representation</u> in combination with the other features of claim 61. For at least these reasons, Applicant submits that claim 61 is allowable over the cited art.

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Dependent Claims 4, 24 and 44

In addition to being allowable over the cited art based on the features recited by each of the independent claims, Applicant submits that dependent claims 4, 24 and 44 are allowable for the additional features recited in the respective claims. For instance, the cited prior art fails to teach or suggest, "wherein the listing of at least one injury for at least one subpart appears for the subpart when the subpart is selected from the listing of at least one subpart," as recited by dependent claims 4, 24, and 44. In the Office Action, the Examiner cites to FIG. 4 and paragraph [0076] of Zak as disclosing the features recited in claims 4, 24, and 44. The cited portion of Zak appears to disclose a static listing of injuries that are continuously displayed. Selecting the injury associates an injury with the complaint location that is identified at the time (e.g., "Chest" as depicted in FIG. 4 of Zak). The listing of injuries disclosed by Zak is thus continuously visible. Zak does not appear to teach or suggest that a listing for a subpart appears when the subpart is selected from a listing, as recited by claims 4, 24 and 44.

For at least these reasons, Applicant submits that claims 4, 24 and 44 are allowable over the cited art.

Dependent Claims 7, 27 and 47

In addition to being allowable over the cited art based on the features recited by each of the independent claims, Applicant submits that dependent claims 7, 27, and 47 are allowable for the additional features recited in the respective claims. For instance, the cited prior art fails to teach or suggest, "wherein a listing of at least one treatment appears when an injury is selected from a listing of at least one injury," as recited by dependent claims 7, 27, and 47. In the Office Action, the Examiner cites to FIG. 9 and paragraph [0087] of Zak as disclosing the features recited in claims 7, 27, and 47. The cited portion of Zak appears to disclose a treatment form

used to document treatments previously given by EMS providers. *See* Zak, para. [0085]. Zak does not appear to teach or suggest that a listing of at least one treatment appears when an injury is selected, as recited by claims 7, 27, and 47.

For at least these reasons, Applicant submits that claims 7, 27, and 47 are allowable over the cited art.

Dependent Claims 10, 30 and 50

In addition to being allowable over the cited art based on the features recited by each of the independent claims, Applicant submits that dependent claims 10, 30, and 50 are allowable for the additional features recited in the respective claims. For instance, the cited prior art fails to teach or suggest, "distinguishing the body part selected by at least one of highlighting, outlining, and circling the selected body part," as recited by dependent claims 10, 30, and 50. In the Office Action, the Examiner cites to FIG. 3 of Zak as disclosing the features recited in claims 10, 30, and 50. FIG. 3 of Zak depicts several segmented body parts. Zak, however, does not appear to distinguish one body part from another or depict any form of highlighting, outlining or circling a body part. Accordingly, Zak does not appear to teach or suggest distinguishing a body part selected by at least one of highlighting, outlining, and circling the selected body part, as recited by claims 10, 30, and 50.

For at least these reasons, Applicant submits that claims 10, 30, and 50 are allowable over the cited art.

Dependent Claims 18, 38 and 58

In addition to being allowable over the cited art based on the features recited by each of the independent claims, Applicant submits that dependent claims 18, 38, and 58 are allowable for

the additional features recited in the respective claims. For instance, the cited prior art fails to teach or suggest, "displaying an indicator next to a listing of a received input selection to indicate whether the input selection should be considered in a respective insurance claim," as recited by dependent claims 18, 38, and 58. In the Office Action, the Examiner cites to elements 241-243 of FIG. 2 of Zak as disclosing the features recited in claims 18, 38, and 58. FIG. 2 of Zak depicts three icons used for entry and removal of certain complaints. Zak states:

> The invention uses quick-entry icons to accomplish frequently-performed tasks with a single movement. The forms in FIGS. 2, 3, and 4 show the use of "+", "x", and "-" icons 243. Using the "+" icon adds the currently-designated complaint (or finding) to the complaint list. Using the "x" icon clears the currently-designated complaint and cancels the associated changes. Using the "-" icon deletes a complaint from the complaint list.
> (Zak, para. [0079])

Accordingly, the icons 241-243 are used for entry or removal of data. The icons do not appear to be indicative of any of characteristics of the displayed data. Accordingly, Zak does not appear to teach or suggest an indicator next to a listing of received input selection to indicate whether the input selection should be considered in a respective insurance claim, as recited by claims 18, 38, and 58.
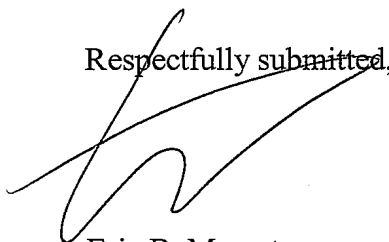
For at least these reasons, Applicant submits that claims 18, 38, and 58 are allowable over the cited art.

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D. **Additional Remarks**

Based on the above, Applicant submits that all of the claims are in condition for allowance. Favorable reconsideration is respectfully solicited.

It is believed that no fees are due in connection with this filing. However, if any fees are due, the Assistant Commissioner is hereby authorized to deduct said fees from Meyertons, Hood, Kivlin, Kowert & Goetzel Deposit Account No. 50-1505/5053-63200/EBM.

Respectfully submitted,

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